

REMARKS/ARGUMENTS

Claims 58-62 were pending in this application.

Applicants note that per Examiner's request, the title of the present application was changed in the response to the Office Action filed on November 29, 2004. However, the instant final Office Action does not reflect the new title. Accordingly, Applicants respectfully request that the new title be made of record in the above-identified application.

Further, Applicants note that an Amendment under 37 C.F.R. §1.48(b) to correct the inventorship in the present application was also filed on November 29, 2004. However, the instant Final Office Action does not reflect the change in the inventorship. Accordingly, Applicants respectfully request that the Amendment under 37 C.F.R. §1.48(b) to correct the inventorship in the present application be made of record in the above-identified application.

Applicants note and thank the Examiner for withdrawal of previous objections and rejection under 35 U.S.C. §112, second paragraph.

The remaining rejection of Claims 58-62 under 35 U.S.C. §102 is addressed below.

Priority

Applicants note that the effective filing date of the present application is March 8, 1999.

Utility

Applicants note that utility is established based on Example 109, Ability of PRO Polypeptides to Inhibit Vascular Endothelial Growth Factor (VEGF) Stimulated Proliferation of Endothelial Cell Growth (Assay 9).

Claim Rejections – 35 U.S.C. §102

Claims 58-62 remain rejected under 35 U.S.C. 102(e) as being anticipated by Ford *et al.*, U.S. Patent No. 6,392,018, filed February 12, 1999 and issued May 21, 2002.

In particular, the Examiner alleges that Declaration filed on November 29, 2004 is not persuasive because it is unexecuted.

Applicants respectfully submit that signed Declarations under 37 C.F.R. §1.131 by Dr. Ferrara, Dr. Goddard, Dr. Godowski, Dr. Gurney and Dr. Wood were submitted with a Supplemental Response to Office Action filed on February 10, 2005, copies of which are

enclosed herewith for the Examiner's review. The consideration of the signed Declarations is respectfully requested.

Applicants note that the Supplemental Response along with the executed Declarations filed on February 10, 2005 are clearly of record as shown in the Patent Application Information Retrieval (PAIR) system on the USPTO website.

As stated in the Declaration, Applicants had obtained PRO320 polypeptide and had examined the effect of this polypeptide on the endothelial cell proliferation in the United States prior to February 12, 1999. Accordingly, the Declaration clearly shows that the invention claimed in the present application was conceived and reduced to practice prior to February 12, 1999. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the present rejection.

CONCLUSION

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited. Should there be any further issues outstanding, the Examiner is invited to contact the undersigned attorney at the telephone number shown below.

Please charge any additional fees, including fees for additional extension of time, or credit overpayment to Deposit Account No. 08-1641 (referencing Attorney's Docket No. 39780-2630 P1C6)

Respectfully submitted,

Date: April 21, 2005

By: 
Anna L. Barry (Reg. No. 51,436)

HELLER EHRMAN LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Examiner: Turner, Sharon L.
)	
Avi J. ASHKENAZI, et al.)	Art Unit: 1647
)	
Application Serial No. 09/978,193)	Confirmation No: 4687
)	
Filed: October 15, 2001)	Attorney's Docket No. 39780-2630 P1C6
)	
For: SECRETED AND)	Customer No. 35489
TRANSMEMBRANE)	
POLYPEPTIDES AND NUCLEIC)	
ACIDS ENCODING THE SAME)	

**DECLARATION OF NAPOLEONE FERRARA, Ph.D., AUDREY GODDARD, Ph.D.,
PAUL J. GODOWSKI, Ph.D., AUSTIN GURNEY, Ph.D.,
AND WILLIAM I. WOOD, Ph.D. UNDER 37 C.F.R. §1.131**

MAIL STOP AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

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6. Copies of pages from laboratory notebook showing the positive results for the PRO320 polypeptide (SEQ ID NO:140), identified by Pin number P288-1, in Assay #9 are attached to this declaration (with dates redacted) as Exhibit A. These experiments were performed and the results were obtained prior to February 12, 1999.

7. Exhibit A clearly shows that the polypeptide designated PRO320 was tested, and its ability to inhibit the proliferation of endothelial cells was determined prior to February 12, 1999.

8. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.



Napoleone Ferrara

1/25/05

Date



Audrey Goddard

Jan. 3/05

Date

Paul J. Godowski

Date

Austin Gurney

Date

William Wood, Ph.D.

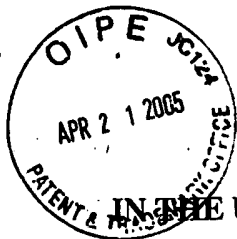
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:) Examiner: Turner, Sharon L.
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Avi J. ASHKENAZI, et al.) Art Unit: 1647
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Application Serial No. 09/978,193) Confirmation No: 4687
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Filed: October 15, 2001) Attorney's Docket No. 39780-2630 P1C6
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For: SECRETED AND) Customer No. 35489
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Jan. 3/05

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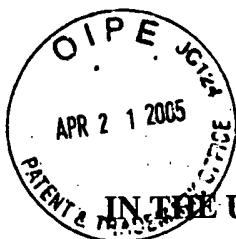
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Date

Audrey Goddard

Date

Paul J. Godowski

Date



Austin Gurney

7/1/05
Date

William Wood, Ph.D.

Date

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Avi J. ASHKENAZI, et al.) Art Unit: 1647
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